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Endeavor Group Holdings, Inc.

18 UNITED STATES DISTRICT COURT
19 DISTRICT OF NEVADA

20 KAJAN JOHNSON and CLARENCE
21 DOLLAWAY, on behalf of themselves and
all others similarly situated,

22 Plaintiffs,

v.

23 ZUFFA, LLC (d/b/a Ultimate Fighting
Championship and UFC) and Endeavor
24 Group Holdings, Inc.,

25 Defendants.

No.: 2:21-cv-01189-RFB-BNW

[PROPOSED] JOINT DISCOVERY
PLAN AND SCHEDULING ORDER

1 Pursuant to the Court’s August 23, 2023 Minute Order (ECF No. 73), Plaintiffs Kajan
 2 Johnson, and Clarence Dollaway (“Plaintiffs”) and Defendants Zuffa, LLC (“Zuffa”) and
 3 Endeavor Group Holdings, Inc. (“Endeavor,” together with Zuffa: “Defendants,” and collectively
 4 with Plaintiffs: the “Parties”), jointly submit this [Proposed] Joint Discovery Plan And
 5 Scheduling Order.

6 Plaintiffs filed the *Johnson* Action on June 23, 2021. ECF No. 1.¹ On September 30,
 7 2022, the Court denied Defendants’ Motion to Dismiss and denied the parties’ Proposed
 8 Discovery Plan and Scheduling Order, both without prejudice. ECF No. 68. The Court also stayed
 9 the case pending the issuance of its class certification order in *Le v. Zuffa, LLC*, No. 2:15-cv-
 10 01045 (D. Nev.) (“*Le*”). *Id.* At the September 30, 2020 status conference, the Court further noted
 11 that “there’s enough there for the [*Johnson*] case to proceed, at least in terms of a motion to
 12 dismiss,” but as to Endeavor, in particular, the Court stated it would allow certain discovery prior
 13 to ruling with prejudice on Endeavor’s motion to dismiss. ECF No. 69 at 25. During the August
 14 21, 2023 status conference, the Court lifted the discovery stay in *Johnson* and asked the Parties
 15 to submit a Joint Discovery Plan and Scheduling Order no later than September 20, 2023. ECF
 16 No. 73; Hrg. Tr. at 31, *Le*, ECF No. 846. The Court also stated, “if there is no resolution from
 17 the standpoint of the class being decertified or that decision being overturned or the Court grants
 18 summary judgment, this case in *Le* will be tried next year.” Hrg. Tr. at 9, *Le*, ECF No. 846. The
 19 Court then offered a “potential trial date” of March or April 2024. *Id.* at 16. The Court set a
 20 deadline of October 24, 2023, for Zuffa to file a motion to reopen discovery in *Le* and/or a motion
 21 for summary judgment for the Bout Class regarding damages and liability.² Minute Order, *Le*,
 22 ECF No. 847. Subsequently, the Court tentatively set the *Le* case for trial on April 8, 2024 via
 23

25 ¹ Unless otherwise stated, citations herein refer to this action, *Johnson, et al. v. Zuffa, LLC, et al.*,
 26 No. 2:21-cv-1189 (D. Nev.).

27 ² The Court stated that a class seeking injunctive relief “hasn’t been certified” in *Le*. Hrg. Tr. at
 28 32, *Le*, ECF No. 846.

1 email pending the outcome and timing of Zuffa's Fed. R. Civ. P. 23(f) petition for appeal to the
 2 Ninth Circuit. *See Email from Darci Reich-Smith to Counsel for the Parties (Sept. 5, 2023).*

3 **I. Outstanding Motions and Proposed Stipulations (Joint Statement)**

4 There are no currently outstanding motions. However, Defendants contend that
 5 Endeavor's motion to dismiss has not been fully resolved and the legal basis for allowing
 6 Endeavor to remain as a defendant, despite the Court's acknowledgment of "the lack of sufficient
 7 specific allegations against Endeavor," Hrg. Tr. at 23, ECF No. 69, requires clarification by the
 8 Court before discovery may proceed against Endeavor. Plaintiffs disagree with Defendants'
 9 position. In Plaintiffs' view, the Court's Order denying Defendants' motion to dismiss without
 10 prejudice (1) considered Defendants' arguments concerning Endeavor, and nonetheless (2)
 11 denied the motion to dismiss in full. *See* ECF 69 at 26-29. Further, the Court lifted the discovery
 12 stay in *Johnson* on August 21, 2023. Hrg. Tr. at 31, *Le*, ECF No. 846. Thus, even if Defendants
 13 had a pending motion to dismiss, it would not create a barrier to proceeding with discovery.³
 14 Plaintiffs therefore believe that discovery should proceed against both Defendants as the Parties
 15 discussed with the Court at the September 30, 2022 hearing.

16 There are currently no pending proposed stipulations. However, as noted in Part III, *infra*,
 17 the Parties are negotiating whether certain stipulations from the *Le* matter should be ordered to
 18 apply with equal force to this *Johnson* matter, potentially with minor modifications.

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 22
 23 ³ *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011) ("The Federal Rules of Civil
 24 Procedure do not provide for automatic or blanket stays of discovery when a potentially
 25 dispositive motion is pending."); *see also Turner Broadcasting System, Inc. v. Tracinda Corp.*,
 26 175 F.R.D. 554 (D. Nev. 1997) ("A district court may ... stay discovery when it is *convinced* that
 27 the plaintiff will be unable to state a claim for relief." (quoting *Wood v. McEwen*, 644 F.2d 797,
 801 (9th Cir. 1981) (emphasis in *Turner*)); *Twin City Fire Ins. Co. v. Employers Ins. of Wausau*,
 124 F.R.D. 652, 653 (D. Nev. 1989) ("Some extraordinary justification [for a stay] must be
 shown to satisfy the good cause requirement[.]").

1 **II. Statement of the Case**

2 **A. Plaintiffs' Statement**

3 **1. Description of Plaintiffs' Claims**

4 Plaintiffs in *Johnson*, two Mixed Martial Arts (“MMA”) Fighters, allege that Defendants
 5 acquired, maintained, and enhanced monopsony power in the market for professional MMA
 6 fighters in violation of Section 2 of the Sherman Act.⁴ *See* Antitrust Class Action Complaint
 7 (“Compl.”), ECF No. 1, (June 6, 2023); *see also* Opp. to Mot. to Dismiss, ECF No. 41 (Oct. 22,
 8 2021). Plaintiffs allege that Defendants achieved and maintained their monopsony through an
 9 anticompetitive “Scheme” that included acquiring its main competitors for promoting live
 10 professional MMA events and then foreclosing all other promoters’ access to a critical mass of
 11 top MMA fighters through exclusive contracts and predatory coercive conduct. *Id.* Plaintiffs
 12 allege further that as the dominant player in promoting live professional MMA events dating
 13 back to 2005 and continuing through the present, Zuffa has been able to coerce Fighters to accept
 14 Zuffa’s restrictive, exclusive contracts and below-market compensation. *See, e.g.,* Compl. ¶¶3-
 15 6, 8-10, 18, 20, 55-57, 78-80, 90, 95-140. As in *Le*, the Johnson Plaintiffs assert that Defendants’
 16 exclusive contracts continue to include provisions and clauses that render Fighters like Plaintiffs
 17 and those in the proposed Class, “essentially stuck with UFC for the life of their careers.” Slip
 18 Op., *Le v. Zuffa LLC*, No. 15-1045, ECF No. 839 at 43 (D. Nev. Aug. 9, 2023) (“*Le* Class
 19 Certification Order”); *see also, e.g.,* Compl. ¶101.

20
 21
 22 ⁴ Below, Defendants misstate the allegations of the Complaint, asserting that Plaintiffs allege that
 23 Zuffa is “responsible for building ‘the most popular and fastest growing spectator sport in the
 24 U.S. and North America.’” *See infra* (citing Compl., ECF No. 1 ¶83). Not so. The Complaint, in
 25 fact, does not allege that Zuffa built anything. The Complaint alleges that Zuffa artificially
 26 suppressed compensation to fighters and reduced output of professional MMA bouts, the
 27 opposite of being responsible for building the sport. *E.g.,* Compl. ¶95. In any event, it is fighters
 28 that caused the sport to be the “most popular and fastest growing spectator sport in the U.S. and
 29 North America.” Compl. ¶83; *see also id.* ¶4 (MMA promoters “can attract a significant live or
 30 Pay-Per-View audience based on the public notoriety of the Professional MMA Fighters
 31 scheduled to appear....”).

1 Plaintiffs' claims in the instant *Johnson* action are substantively similar to the claims in
 2 the *Le* action, arising out of similar exclusive contracts and other exclusionary acts with similar
 3 exclusionary effects on rivals. Like in *Le*, the *Johnson* Plaintiffs allege that Defendants' Scheme
 4 artificially suppressed the pay of all UFC fighters. Notably, the *Johnson* Plaintiffs' claims have
 5 three important differences from those of the *Le* Plaintiffs:

6 **First**, the proposed Class in *Johnson* includes "All persons who compete in one or more
 7 live professional UFC-promoted MMA bouts taking place or broadcast in the United States
 8 during the period July 1, 2017 to the present." Compl. ¶34. The Class Period for the certified
 9 class in *Le* extends from December 16, 2010 through and including June 30, 2017. *See Le* Class
 10 Certification Order at 2. Plaintiffs in *Johnson* allege that the ongoing nature of the Scheme has
 11 enabled Defendants to continue to suppress compensation for the *Johnson* Plaintiffs and the
 12 proposed *Johnson* Class beyond the time period at issue in *Le* and through the present. *See, e.g.*,
 13 Compl. ¶¶3-6, 8-10, 18, 20, 55-57, 78-80, 90, 95-140. Discovery will be necessary to assess the
 14 three aspects of the alleged Scheme as it proceeded through the Class Period in *Johnson*,
 15 including the fighter contracts in place for the members of the proposed *Johnson* class, and other
 16 aspects of the alleged anticompetitive Scheme including mergers and coercion. *See, e.g.*, Compl.
 17 ¶¶95-140 (detailing the Scheme). Discovery will also be needed to assess and quantify the effects
 18 of the Scheme on competition, and the impact of the Scheme on the Class including quantifying
 19 damages to members of the Class.

20 Discovery in *Johnson* will address, in addition, the nature of any changes that Defendants
 21 may have made to key provisions of UFC Fighter contracts and the economic effects of
 22 Defendants' Scheme for purposes of liability and damages as well as injunctive relief. Notably,
 23 there also have been several changes in Zuffa's personnel since the June 2017 close of discovery
 24 in the *Le* matter. Many of the critical witnesses from the *Le* litigation (*e.g.*, Joe Silva (the UFC's
 25 former matchmaker), Lorenzo Fertitta (former Zuffa executive and owner), and Kirk Hendrick
 26 (former Chief Legal Officer)) no longer work for Zuffa, requiring discovery to be taken from
 27 their successors. Other Zuffa executives will need to have additional custodial document searches

1 and sit for new depositions to bring the record from the close of discovery in the *Le* matter
 2 through the present.⁵

3 **Second**, Defendants here include Endeavor, which purchased Zuffa in August 2016 for
 4 approximately \$4 billion. Plaintiffs allege that Endeavor directly participated in the UFC's day-
 5 to-day business activities and anticompetitive conduct, promoted live professional MMA bouts
 6 and events featuring the professional MMA Fighters in the proposed Class, and negotiated pay-
 7 per-view, media, and sponsorship agreements on behalf of the UFC and its Fighters. *See, e.g.*,
 8 Compl. ¶¶29, 42-49, 95-96. Discovery will be necessary relating to the extent and nature of
 9 Endeavor's participation in, and alleged direction of, the anticompetitive Scheme.

10 **Third**, beginning in or around 2019, Plaintiffs understand that Defendants began adding
 11 arbitration clauses and/or class action bans to most or all of their Fighter contracts. While neither
 12 of the named Plaintiffs have arbitration clauses or class action bans in their contracts, many of
 13 the *Johnson* proposed Class members may have such clauses. Plaintiffs view these clauses in the
 14 UFC's exclusive Fighter contracts, to the extent enforceable under any circumstances, to be an
 15 exercise of Zuffa's monopsony power over Fighters gained through Defendants' continuing
 16 anticompetitive Scheme. Plaintiffs believe they are not enforceable. To the extent deemed
 17 enforceable, these arbitration clauses have the potential to have a significant effect on
 18 composition of the proposed Class and the progress of this case more generally. The Court has
 19 asked the Parties to provide a briefing schedule relating to any motions to compel arbitration that
 20 Defendants in *Johnson* intend to file. ECF No. 73. Plaintiffs believe, however, that because
 21 neither of the named Plaintiffs' contracts contain arbitration clauses or class action bans, it is
 22 possible that these issues would be more appropriately resolved in connection with class
 23 certification. In any event, before the it can be determined how best to bring these matters to the
 24 attention of the Court for resolution, further discovery relating to the extent and scope of these

26 ⁵ As noted *infra*, the Parties are discussing their respective positions concerning how discovery
 27 taken in *Le* and discovery taken in *Johnson* may be treated in the other case.

1 clauses, and Zuffa's intentions with regard to their enforcement in this case, will also be
 2 necessary.

3

4 **2. Response to Defendants' statement concerning trials in the *Johnson* to the**
 5 ***Le* cases**

6 Below, Defendants repeat their position that *Le* and *Johnson* should be tried together.
 7 Plaintiffs disagree.

8 **First**, as Plaintiffs understand it, the Court has already ruled that the *Le* and *Johnson* cases
 9 will be tried separately, with a *Le* trial on damages to go first. Hrg. Tr., *Le*, ECF 846 at 8 (“So let
 10 me just be clear from the outset. These cases will be tried separately. So *Le* will be tried *first on*
 11 *damages* and then *Johnson* will be tried later.”) (emphasis added). This ruling is consistent with
 12 Plaintiffs’ position, as set forth in Plaintiffs’ Pre-Conference Report, *Le*, ECF No. 842, that the
 13 *Le* trial (currently scheduled for April 2024) should focus on liability and damages, deferring the
 14 *Le* Plaintiffs’ injunctive relief claims to a later date (to be heard in conjunction with the *Johnson*
 15 matter). Given that the *Johnson* case will focus on present market conditions, as would the *Le*
 16 injunctive relief claims, it would be far more efficient and sensible to try the *Le* injunctive relief
 17 claims in conjunction with the later, separate, *Johnson* trial.

18 **Second**, Defendants’ request for the Court to revisit its ruling that the *Le* and *Johnson*
 19 cases should be tried separately would impose many months if not many years of additional
 20 delay. Based on the agreed discovery schedule in *Johnson* below, trial could not occur until 2026
 21 at the earliest. Defendants’ suggestion that such delay is a “mere fraction” of the nine years that
 22 have already elapsed since filing the *Le* case disregards the Court’s rulings on the matter and is
 23 insensitive to prejudice to the certified plaintiff class in *Le*. While Zuffa has continued to rake in
 24 monopoly profits, the fighters in the *Le* class—many of whom received poverty wages so that
 25 Zuffa could reap those profits—have patiently waited. Telling this fighter class that waiting years
 26 longer is a “mere fraction” of their existing wait is no solace to them. Of course, no one predicted
 27

1 the once-in-a-century pandemic and its effect on the progression of this case, but that does not
 2 warrant additional delay; rather it counsels moving to trial as expeditiously as possible.

3 Further, the *Le* Plaintiffs and Class face a substantial disadvantage from delay at trial even
 4 now. Memories have faded with the passage of time. The prospect of trying a case to jury
 5 concerning events that took place over a decade ago is daunting. It would be more daunting still
 6 if the *Le* case was effectively stayed while the *Johnson* case went through two years or more of
 7 fact and expert discovery and other pretrial procedures (including class certification). These are
 8 the bases for the *Le* Plaintiffs' request for a trial in *Le* on liability and damages in the first half of
 9 2024, and for an injunctive relief proceeding to occur after discovery in *Johnson* (which would
 10 bring in the record on present market conditions as required for injunctive relief proceedings).

11 Plaintiffs further incorporate their Pre-Conference Report, *Le*, ECF No. 842, in response
 12 to Defendants' rehashing of their rejected argument.

13 **B. Defendants' Statement**

14 According to the Complaint, Defendant Zuffa, LLC ("Zuffa"), is responsible for building
 15 "one of the most popular and fastest growing spectator sports in the U.S. and North America,"
 16 mixed martial arts ("MMA"). Compl. ¶ 83. Before Ultimate Fighting Championship ("UFC")
 17 was founded in 1993, and later acquired by Zuffa in 2001, a professional MMA fighter had
 18 virtually no career prospects in this country—indeed, the sport was outlawed in many states.
 19 Even to this day, single-sport martial arts "are mainly amateur disciplines," and there is no "outlet
 20 for elite amateur wrestlers to continue their athletic careers as wrestlers professionally," the
 21 Complaint contends. *Id.* ¶¶ 46, 68. That is because it is incredibly difficult to build any new sports
 22 league, let alone build a new sport from scratch, like Zuffa did for MMA. Fans and sponsors only
 23 want to support quality bouts between fighters with notoriety and reputation, which requires
 24 extensive programming and marketing investments.⁶ *Id.* ¶¶ 94, 96, 118. Zuffa made those

26 ⁶ Plaintiffs' argument above, *see supra* n.4, that instead fighter "notoriety" drove the growth of
 27 MMA in this country actually proves Defendants' point. It is the promotor—in this case UFC—
 that makes the investment to create that "notoriety" and fan interest.

1 necessary investments to grow MMA and UFC from “fewer than 90,000 people purchas[ing] the
 2 UFC’s first MMA PPV event” to “more than one million buyers” of UFC events in 2006—a
 3 growth of over 1,000% that Plaintiffs do not even attempt to allege that Zuffa achieved through
 4 anticompetitive means. *Id.* ¶ 94. Now, “approximately 1 billion TV households” view UFC
 5 content annually. *Id.* ¶ 29. Even the Complaint begrudgingly acknowledges that there are
 6 multiple outlets for MMA athletes to fight professionally (e.g., Legacy Fighting Alliance, *id.* ¶¶
 7 121, 123, Titan Fighting Championship, *id.* ¶ 124, and Bellator, *id.* ¶¶ 115, 126). And the
 8 Complaint conspicuously ignores additional professional MMA promoters that are winning fans,
 9 fighters, and investment dollars, such as Professional Fighters League, Combate Global, and
 10 ONE Championship. From any objective view, the growth of MMA in this country is a story of
 11 expansion in opportunities for fighters, and UFC was the driving force behind that success.

12 Plaintiffs in the *Le* Action do not dispute the incredible growth of MMA in this country,
 13 but instead complain that Zuffa has not shared an adequate percentage of its earnings growth
 14 with fighters. Am. Compl. ¶¶ 90-91, *Le*, ECF No. 208 (Dec. 18, 2015) (“*Le* Compl.”). Plaintiffs
 15 support their theory using an expert whose work another court in this Circuit recently found was
 16 “unreliable,” supported by “no real analysis or data,” and based on “wholly speculative
 17 assumptions” that were “unsuitable for admission at trial.” *In re Google Play Store Antitrust*
 18 *Litig.*, 2023 WL 5532128, at *9-10 (N.D. Cal. Aug. 28, 2023) (excluding Plaintiffs’ expert Hal
 19 Singer). So too here. Defendants’ forthcoming motions for summary judgment and to exclude
 20 expert opinions will show that the *Le* Plaintiffs’ claims should be thrown out before trial.

21 For the record, Zuffa maintains that there should be one trial of *Le* and *Johnson*; the
 22 Complaint that Plaintiffs filed in the *Johnson* Action contains “virtually identical factual
 23 allegations related to the same series of events, facts, and circumstances” as the *Le* Action. Pls.’
 24 Notice of Related Action at 2, ECF No. 9 (July 2, 2021). The singular “purpose of this action,”
 25 according to Plaintiffs, is to “recover damages for the harms Defendants’ continuing unlawful
 26 conduct has caused . . . after the period for which plaintiffs seek damages in the *Le* Action.” Pls.’
 27 Statement at 1, [Proposed] Discovery Plan and Scheduling Order (“Stipulated Discovery Plan”),
 28

1 ECF No. 51 (Jan. 14, 2022). The only supposed “unlawful conduct” that Plaintiffs identify as
 2 continuing in the post-July 2017 time period is Zuffa’s continued use of the same “standard”
 3 contract provisions that the *Le* Plaintiffs challenged dating back to 2010. *See* Compl. ¶ 101; *see also*
 4 Opp. to Mot. to Dismiss at 15-16, 18, ECF No. 41 (Oct. 22, 2021) (identifying these contracts
 5 as the only relevant “new, independent overt acts” in the *Johnson* time period); *see also supra*
 6 Part II.A.1, Pls.’ Statement (not identifying any new challenged action except “similar exclusive
 7 contracts”). All of the Complaint’s other allegations about supposedly unlawful acquisitions or
 8 “threats” are copied from the *Le* allegations about pre-2017 conduct. Thus, as Plaintiffs admit,
 9 “[t]he substantive claims and underlying facts in this case significantly overlap with those in *Le*. ”
 10 Pls.’ Statement at 2, Stipulated Discovery Plan; Pls.’ Pre-Conference Statement at 6, ECF No.
 11 71 (Aug. 17, 2023) (“[T]here is undoubtedly overlap between the two cases.”).

12 Assuming separate trials as the Court has ordered, the Parties are currently negotiating
 13 a protocol concerning when discovery in *Le* and *Johnson* may be used in the respective cases.

14 **III. Discovery From *Le* Case (Joint Statement)**

15 The Parties are cognizant of the overlap between certain factual matters in the *Le* and
 16 *Johnson* cases. As a result, the Parties are meeting and conferring in an effort to come to
 17 agreement on whether discovery in each of the two actions should be treated as though taken in
 18 the other action, and if so, whether there should be any restrictions on such usage. Within the
 19 next thirty days, the Parties will either bring a stipulation to the Court for approval, or agree on
 20 an expedited briefing process to have the Court resolve the issue.

21 The Parties are currently negotiating whether the following orders from the *Le* case
 22 should be proposed for adoption and implementation in the *Johnson* case with or without certain
 23 minor modifications: (a) the Stipulated Order Re: Discovery of Electronically Stored
 24 Information, *Le v. Zuffa, LLC*, No. 15-1045, ECF No. 160 (approved by Court Order at ECF No.
 25
 26
 27

1 314); (b) the Stipulation and Protective Order, *Le v. Zuffa, LLC*, No. 15-1045, ECF No. 197;⁷
 2 and (c) the Stipulation and Order Regarding Expert Discovery, *Le v. Zuffa, LLC*, No. 15-1045,
 3 ECF No. 319. The Parties will present them to the Court in short order either as proposed
 4 stipulated orders or in the form of a motion or motions.

5 **IV. Discovery Plan**

6 **A. Depositions (Joint Statement)**

7 The Parties agree that a total of 50 depositions per side, including no more than 15
 8 depositions per Defendant. i.e., Plaintiffs may take up to fifteen depositions of each Defendant's
 9 employees (including current and former employees). This proposal is comparable to the Court's
 10 Order in the *Le* matter, *see Le v. Zuffa, LLC*, No. 15-1045, ECF No. 207 (D. Nev. Dec. 8, 2015),
 11 but reflects 5 additional depositions to account for the additional defendant in this case. As in the
 12 *Le* matter, the proposal excludes custodian of records depositions as well as authentication
 13 depositions that are short in duration. *See id.*

14 The Parties' proposal as to the number of depositions also excludes expert depositions.
 15 As to expert depositions, the Parties propose a limit of ten (10) hours of deposition time per
 16 expert that submits a report in *Johnson*, to the extent such expert submitted a report in *Le*. For
 17 any expert from whom a Party submits a report in *Johnson* on a significant economic issue
 18 relating to impact or damages, and that expert did not submit a report in *Le*, the opposing Party
 19 shall have fourteen (14) hours to depose such expert. To the extent a Party submits an expert
 20 report not contemplated by the schedule entered in this case, and such expert report is allowed
 21 by the Court, the opposing party shall have an opportunity to take an additional 7 hours of
 22 deposition time concerning the unscheduled report.

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 24
 25
 26 ⁷ Depending on the outcome of the Parties' ongoing meet and confer as to how the discovery
 27 record in one case be used in the other, the Orders in *Le* may need to be amended. The Parties
 will address these issues in any stipulation or briefing presented to the Court on the issue.

1 **B. Interrogatories (Joint Statement).**

2 The Parties propose that each side may collectively serve no more than 27 interrogatories
 3 on the other side. Thus, for example, Defendants may serve 10 interrogatories that require a
 4 separate response from each Plaintiff and 7 interrogatories that require a joint response from
 5 Plaintiffs. Similarly, Plaintiffs may, for example, serve 5 interrogatories to Defendant Endeavor,
 6 10 interrogatories to Defendant Zuffa, and 12 interrogatories that require a joint response from
 7 Defendants.

8 **V. Resolving Certain Injunctive Relief Issues in *Le***

9 In the *Le* Class Certification Order, the Court found that the *Le* Plaintiffs “have standing
 10 to bring their claims of injunctive relief.” *Le* Class Certification Order at 73. However, the *Le*
 11 Plaintiffs only sought certification under Fed. R. Civ. P. 23(b)(3) in their motion for class
 12 certification, *Le v. Zuffa, LLC*, No. 15-1045, ECF No. 518, and the Court declined to certify a
 13 class under Fed. R. Civ. P. 23(b)(2) or rule on the propriety of injunctive relief under Fed. R.
 14 Civ. P. 23(b)(3) without further briefing. *Le* Class Certification Order at 74.

15 As Plaintiffs set forth in detail in their Pre-Conference Statement, Plaintiffs have
 16 proposed that, because the liability and damages claims in *Le* run through mid-2017, it would be
 17 most efficient for the injunctive relief claims in *Le* be heard in conjunction with the trial in
 18 *Johnson*. See Plaintiffs’ Pre-Conference Statement, *Le*, ECF 842, at 1-7 (Aug. 17, 2023).
 19 Defendants have opposed this proposal as inefficiently requiring the duplicative presentation of
 20 evidence, and instead seek to have the *Le* injunctive relief claims (if any survive class certification
 21 and summary judgment) be tried with the *Le* damages and liability claims after additional
 22 discovery is permitted in *Le*.

23 The Court has requested that the Parties submit a briefing schedule concerning whether,
 24 “in fact a class can be certified” to seek injunctive relief. Hrg. Tr., *Le*, ECF No. 846 at 32-33
 25 (Aug. 22, 2023). The Court sought from the Parties briefing on whether Plaintiffs in *Le* can seek
 26 injunctive relief as a procedural matter, either under Fed. R. Civ. P. 23(b)(2) or (b)(3), or
 27 otherwise.

1 The Parties, therefore, offer the following briefing schedule on these injunctive relief
 2 issues, keyed off the date that the Ninth Circuit denies Zuffa's Rule 23(f) petition:

Case Event	Date
Plaintiffs' Motion re Injunctive Relief	30 days after resolution of Zuffa's Fed. R. Civ. P. 23(f)
Defendants' Opposition re Plaintiffs' Motion re Injunctive Relief	30 days after Plaintiffs file their Motion
Plaintiffs' Reply re Plaintiffs' Motion re Injunctive Relief	30 days after Zuffa's Opposition

VI. Proposed Case Schedule Johnson

Case Event	Date
Fact Discovery Opens	September 22, 2023
Rule 26(a) Disclosures	October 2, 2023
Parties Begin Rolling Production of Documents Responsive to any Document Requests Served on or Before October 13, 2023	November 1, 2023
Parties Substantially Complete Production of Documents Responsive to any Document Requests Served on or Before October 13, 2023	January 9, 2024
Deadline to Amend Pleadings Without Leave of Court	June 17, 2024
Close of Fact Discovery Including All Non-Expert Depositions	February 24, 2025
Plaintiffs' Opening Expert Reports on All Issues, Including Class and Merits	March 28, 2025
Last Day to Depose Experts Concerning Opening Reports	April 29, 2025
Opposition Expert Reports on All Issues, Including Class and Merits	May 9, 2025
Last Day to Depose Opposition Experts	June 10, 2025
Plaintiffs' Rebuttal Expert Reports	June 20, 2025
Last Day to Depose Experts Concerning Reply Reports	August 12, 2025
<i>Daubert</i> Motion(s)	September 12, 2025
Class Certification Motion	September 12, 2025
<i>Daubert</i> Opposition Brief(s)	October 24, 2025
Class Certification Opposition	October 24, 2025
Reply in Support of <i>Daubert</i> Motion(s)	November 21, 2025
Reply in Support of Class Certification	December 5, 2025
Hearing on Class Certification and <i>Daubert</i> Motion(s)	At the Court's convenience
Motion(s) for Summary Judgment	45 days after the Court's decision on class certification
Opposition to Motion(s) for Summary Judgment	45 days after motions for summary judgment

Case Event	Date
Reply(ies) in Support of Summary Judgment	30 days after oppositions to motions for summary judgment
Hearing on Motion(s) for Summary Judgment	At the Court's convenience following notice and opt-out period if the Court grants class certification

Further, it is the Parties' understanding from the *Le* matter that courts in this district do not schedule trial deadlines at this stage of the case. To the extent the Court deems it helpful, the Parties can submit a proposed sequencing of trial-related deadlines arising out of both this case and the injunctive relief proceedings associated with the *Le* matter.

1 DATED: September 21, 2023

Respectfully Submitted,

2 By: /s/Eric L. Cramer
3 Eric L. Cramer

4 BERGER MONTAGUE PC
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